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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,001	12/10/2003	Miroslav Kostka	P/4309-64	8303

7590 04/03/2006

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EXAMINER

SALATA, ANTHONY J

ART UNIT	PAPER NUMBER
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2837

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

8/2

Office Action Summary	Application No.	Applicant(s)	
	10/733,001	KOSTKA ET AL.	
	Examiner	Art Unit	
	Jonathan Salata	2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 10-14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12-10-03</u> . | 6) <input type="checkbox"/> Other: ____. |

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UNITED STATES DEPARTMENT OF COMMERCE
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Washington, D.C. 20231

Paper No:03282006
Application No:10/733001
Filing Date: December 10,2003

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It should be brief but technically accurate and descriptive, preferably from two to seven words. See 37 CFR 1.72(a).

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-9,15,16 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5,9,10,12-16, 18 of copending Application No.

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10/875412. Although the conflicting claims are not identical, they are not patentably distinct from each other because the terminology merely changes from cost rules to actual rules known within the art.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 10-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The limitations of the multi-group control when a parameter MAXAPE is exceeded and the capacity is adjusted by call parameters is not shown or fairly suggested by the cited art of record

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tsuji, Davis et al., Urata, Jokela et al., McCarthy et al and Haegi et al are cited to illustrate similar elevator zone/transfer floor controllers.

A shortened statutory period for response to this action is set to expire 3 months from the date of this letter.

Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Any inquiry of a **general nature** should be directed to the **Group receptionist whose telephone number is (571) 272-2800**.

Information regarding the STATUS of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PARI. Status information for unpublished applications is available through Private PAIR ONLY. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Any questions on access to PAIR, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Papers related to this application may be submitted to Group 2800 by facsimile transmission. Papers should be faxed to Group 2800 via the PTO 2800 Fax Center. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989). The Fax Center number is (571) 273-8300.

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For assistance in **Patent procedure, fees or general Patent questions** calls should be directed to the **Inventors Assistance Center (IAC)** whose telephone number is **800-PTO-9199 or 800-786-9199**. Assistance is also available on the Internet at www.uspto.gov.

For requesting copies of Cited Art, Office Actions or the like, response to Status Letters, lost papers or files or General Problem solving, calls should be directed to the TC 2800 Customer Service Office whose telephone number is 571-272-2800 or by fax at 571-273-8300.

Any inquiry concerning **this communication or earlier communications from the examiner** should be directed to **Jonathan Salata whose telephone number is (571) 272-2073**. The examiner does not have as detailed access as the previously listed numbers with regard to status or general problem solving. The examiner can normally be reached on Monday through Thursday from 7:30 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley, can be reached on (571) 272-2800 ext 33.

ajs

March 28, 2006


JONATHAN SALATA
PRIMARY EXAMINER
ART UNIT 2837